

Remarks

Applicant has amended claims 1 and 37; and added new claims 38-51. Applicant respectfully submits that no new matter was added by the amendment, as all of the amended matter was either previously illustrated or described in the drawings, written specification and/or claims of the present application. (See, FIGS. 1, 3a, 4, 5 & 10) Entry of the amendment and favorable consideration thereof is earnestly requested.

Claim Rejections

The Examiner has rejected the claims 1, 2, 4-10, 12-13, 15, 17-26, 28-33 and 37 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 3,266,059 (Stelle) in view of U.S. Patent No. 3,504,902 (Irwin et al.)

As amended, claim 1 recites among other limitations “said first link member having a first set opening extending therethrough . . . said fourth link member having a second set opening extending therethrough . . . wherein said first set opening and said second set opening comprise fluted openings.” As amended, claim 37 recites among other limitations “a first member having a first set opening extending therethrough . . . a sixth member . . . having an second set opening extending therethrough . . . wherein said first set opening and said second set opening comprise fluted openings.” Applicant respectfully submits that these limitations are not taught in the cited prior art.

For example, while Stelle teaches use of “rim aperture 96”, nowhere does Stelle teach that these apertures are fluted as is illustrated in FIG 3a of the pending application. (See, Stelle FIG. 5; Col. 3, ln. 70) Applicant further notes that Irwin also fails to teach a fluted aperture as recited in all the pending claims, and in fact, Irwin fails to teach any wire extending from one section to the other.

Applicant further submits that the particular configuration of the member with respect to each other have been variously claimed in claims 1, 37 and 38-51, which neither Stelle or Irwin teach. For example, claim 1 recites a first and second member with an elastomer disposed therebetween and a third and a fourth member with an elastomer disposed therebetween (claim 37 similarly recites the various members). However, even if one were to combine Stelle with Irwin as the examiner has suggested, the combination results in a single vertebra (75-80) with an elastomer. Accordingly, while claim 1 recites a first member and an elastomer, a second member is further recited that is not taught in Stelle. If one were to submit that the next vertebra is the second member, then Stelle fails to teach a third member and that "the second member abuts the third member" as recited in claim 1. Accordingly, there is no teaching in Stelle for all the limitations of claims 1 and 37. Likewise, there is no teaching in Stelle or Irwin relating to the positioning of the various set of link members adjacent to each other as claimed in claims 38-51.

It is respectfully requested that the Examiner withdraw the rejections of the presently pending claims based on a combination of Stelle with Irwin as the pending claims can not be obvious in view of this suggested combination. Claims 1-2, 4, 6-10, 12-13, 15, 17-26, 28-33 and 37-51, are in order for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

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